

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE:
FILE NUMBER:

Kansas City District
200500409

REGULATORY PROJECT MANAGER:

Stephen H. Penaluna

Date: 3/11/2005

PROJECT REVIEW/DETERMINATION COMPLETED:

In the office No (Y/N)

Date:

At the project site Yes (Y/N) Date: 3/10/2005

PROJECT LOCATION INFORMATION:

State:

Kansas

County:

Butler

Center coordinates of site by latitude & longitudinal coordinates:

Lat. 37.77028/Long. -96.89736

Approximate size of site/property (including uplands & in acres):

7.9 acres

Name of waterway or watershed:

Upper Walnut River (11030017)

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	0.08								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION:

Preliminary

Or

Approved X.

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

1. The subject 0.08-acre wetlands fringe area is what remains of a drained 0.12-acre stock pond. The pond impoundment was breached with a back-hoe or similar equipment, and drains by sheet flow into a vegetated pasture. Flows into the former pond/wetlands fringe area come from a vegetated channel that drains east through a 12" CMP under Boyer Road west of the site. Based on site inspection, there is no defined channel, outfall, or vegetated swale located below the impoundment that would drain the former pond/wetlands area now or in the past.

2. The subject former pond/wetlands fringe is located outside of the 100-year floodplain of the closest stream, Sutton Creek, which is located approximately 500 yards to the east. There is no hydrological connection between the subject site and Sutton Creek.

3. The site is surrounded on three sides by the Butler County Landfill operations, and on one side by a frequently utilized county road. The utilization of landfill equipment and local traffic volume in the near proximity to the subject site would make its use as habitat for endangered and/or migratory bird species unlikely.